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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,711	01/24/2000	David S. Roberts	PC10299A	6167
23913	7590	10/07/2003	EXAMINER	
			DEVI, SARVAMANGALA J N	
		ART UNIT		PAPER NUMBER
		1645		
DATE MAILED: 10/07/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	Application No. <b>09/489,711</b>	Applicant(s) <b>Roberts et al.</b>
	Examiner <b>S. Devi, Ph.D.</b>	Art Unit <b>1645</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Sep 29, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**THE PERIOD FOR REPLY [check only a) or b)]**

- a)  The period for reply expires 6 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_ . Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see NOTE below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Attachment.

3.  Applicant's reply has overcome the following rejection(s):
   


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4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a)  affidavit, b)  exhibit, or c)  request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   


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6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None

Claim(s) objected to: None

Claim(s) rejected: 13-18 and 24-30

Claim(s) withdrawn from consideration: 19-23

8.  The proposed drawing correction filed on \_\_\_\_\_ is a)  approved or b)  disapproved by the Examiner.
9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10.  Other: Interview Summary (Paper no. 22).

  
**S. DEVI, PH.D.**  
**PRIMARY EXAMINER**  
**ART UNIT 1645**

Application SN 09/489,711  
Art Unit: 1645

**ATTACHMENT TO ADVISORY ACTION**

**Item 2.**

The newly added limitation/phrase, for example, to claims 13, 17 and 30: 'substantially free of cells of *E. rhusiopathiae*' was not presented previously, which changes the scope of the claims, thus requiring further consideration and/or a new search.

October, 2003

**Interview Summary**

Application No. <b>09/489,711</b>	Applicant(s) <b>Roberts et al.</b>
Examiner <b>S. Devi, Ph.D.</b>	Art Unit <b>1645</b>



All participants (applicant, applicant's representative, PTO personnel):

(1) S. Devi (PTO)

(3) \_\_\_\_\_

(2) Mr. Peter Bernstein

(4) \_\_\_\_\_

Date of Interview Oct 6, 2003Type: a)  Telephonic      b)  Video Conference  
c)  Personal [copy is given to 1)  applicant 2)  applicant's representative]Exhibit shown or demonstration conducted: d)  Yes      e)  No. If yes, brief description:After-final amendments of 08/29/03 and 09/29/03.Claim(s) discussed: NoneIdentification of prior art discussed:  
\_\_\_\_\_  
\_\_\_\_\_Agreement with respect to the claims f)  was reached. g)  was not reached. h)  N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

In response to the Office's inquiry as to which of the two after-final amendments to be considered in the instant case, Mr. Bernstein instructed the Examiner to disregard the after-final amendment filed 08/29/03. Mr. Bernstein instructed that the after-final amendment filed 09/29/03 be considered as the formal amendment along with three months extension of time.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i)  It is not necessary for applicant to provide a separate record of the substance of the interview (if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached

  
S. DEVI, PH.D.  
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required